

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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WILLIAM J. WAGNER,

Plaintiff,

-vs-

Docket No. 15-cv-633-FPG

CHIARI & ILECKI, LLP,

Defendant.

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**DEFENDANT'S FIRST SET OF REQUESTS FOR ADMISSION**

Pursuant to Rule 36 of the Federal Rules of Civil Procedure, defendant, CHIARI & ILECKI, LLP, requests that within thirty (30) days of service of these Requests, plaintiff, WILLIAM J. WAGNER, admit all of the following matters for purposes of this action.

**REQUEST NO. 1**

On June 29, 2015, Seth Andrews, an attorney for the plaintiff, William J. Wagner, called Chiari & Ilecki, claiming that the plaintiff was not the William J. Wagner, Jr., who owed a debt to MJ Peterson.

**REQUEST NO. 2**

Melissa Overbeck, one of Chiari & Ilecki's attorneys, explained to Mr. Andrews that Chiari & Ilecki cannot accept as true a suspected debtor's claim of mistaken identity unless that person provides some verifiable proof of his identity.

**REQUEST NO. 3**

Ms. Overbeck requested that Mr. Andrews provide a copy of the plaintiff's Social Security card and driver's license in order to allow Chiari & Ilecki to verify the plaintiff's identity.

**REQUEST NO. 4**

Mr. Andrews told Ms. Overbeck that he would try to convince the plaintiff to produce a copy of his driver's license.

**REQUEST NO. 5**

Ms. Overbeck, in turn, agreed to send Mr. Andrews a copy of the lease that the debtor had signed so that each of them could attempt to verify the plaintiff's identity by comparing the debtor's signature on the lease to the plaintiff's signature on his driver's license.

**REQUEST NO. 6**

Mr. Andrews and Ms. Overbeck also agreed to a general adjournment of the pending subpoena to take the debtor's deposition while they attempted to resolve the issue of the plaintiff's identity.

**REQUEST NO. 7**

Ms. Overbeck confirmed this agreement in a facsimile that she sent Mr. Andrews later that day, June 29, 2015.

REQUEST NO. 8

A true and correct copy of Ms. Overbeck's facsimile to Mr. Andrews is attached as *Exhibit A*.

REQUEST NO. 9

Mr. Andrews never sent Chiari & Ilecki a copy of the plaintiff's driver's license or Social Security card and never contacted Chiari & Ilecki again about this matter.

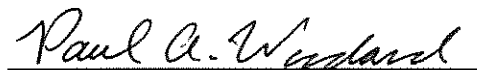
REQUEST NO. 10

Instead, Mr. Andrews filed this lawsuit against Chiari & Ilecki without warning.

REQUEST NO. 11

Chiari & Ilecki's events log, a copy of which is attached as *Exhibit B*, fairly and accurately summarizes Mr. Andrews' communications with Chiari & Ilecki related to this lawsuit.

DATED: Buffalo, New York  
November 16, 2016



Terrence M. Connors, Esq.

Paul A. Woodard, Esq.

CONNORS LLP

Attorneys for Defendant

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# EXHIBIT A

# Transmission Report

Date/Time  
Local ID 1

06-29-2015  
1111

10:33:27 a.m.

Transmit Header Text  
Local Name 1

XEROX

This document : Confirmed  
(reduced sample and details below)  
Document size : 8.5"x11"

CHIARI & ILECKI, LLP  
ATTORNEYS AND COUNSELORS AT LAW  
14 LAFAYETTE SQ STE 1440, BUFFALO, NY 14203  
Phone: (716) 836-4380 Fax: (716) 264-9728  
moverbeck@chiari-ilecki.com

June 29, 2015

## FACSIMILE TRANSMISSION COVER SHEET

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(X) If checked, NO hard copy to follow.

FROM: Melissa Overbeck Esq

TO: Seth Andrews Esq

FAX NUMBER: 332-1884

Number of Pages (with cover): 1

Subject: M.J. PETERSON, LLC v WILLIAM J WAGNER Jr.

### Message:

Pursuant to our telephone conversation, please have this facsimile confirm that my office will agree to a general adjournment of the Subpoena Duces Tecum currently scheduled for July 7, 2015, pending the resolution of any alleged identity issues.

This communication is from a debt collector. The debt collector is attempting to collect a debt, and any information obtained will be used for that purpose.

Our file number: 200655890

Total Pages Scanned : 1

Total Pages Confirmed : 1

No.	Job	Remote Station	Start Time	Duration	Pages	Line	Mode	Job Type	Results
001	246	716 564 3291	10:32:39 a.m. 06-29-2015	00:00:12	1/1	1	EC	HS	CP28800

### Abbreviations:

HS: Host send  
HR: Host receive  
WS: Waiting send

PL: Polled local  
PR: Polled remote  
MS: Mailbox save

MP: Mailbox print  
RP: Report  
FF: Fax Forward

CP: Completed  
FA: Fall  
TU: Terminated by user

TS: Terminated by system  
G3: Group 3  
EC: Error Correct

CHIARI000163

# EXHIBIT B

## Events\_Sheet

Event User	Defendant	FileNo	Client Name	Event DoneDate	Description	Event Comment
Fran	WAGNER, WILLIAM J., Jr.	20065569	M.J. PETERSON, LLC	9/12/2006	Correspondence/letter Review- credit report;	Rec'd balance of cost advance.
Sara	WAGNER, WILLIAM J., Jr.	20065569	M.J. PETERSON, LLC	1/13/2007	LX; DMV	IS-signed green card 5/28/06
Sara	WAGNER, WILLIAM J., Jr.	20065569	M.J. PETERSON, LLC	1/13/2007	Document	Letter to Debtor-New Attorney
Patti	WAGNER, WILLIAM J., Jr.	20065569	M.J. PETERSON, LLC	7/29/2007	Document	Contempt Motion
Patti	WAGNER, WILLIAM J., Jr.	20065569	M.J. PETERSON, LLC	7/29/2007	Document	Affidavit-Mail to Defendants-
Tina	WAGNER, WILLIAM J., Jr.	20065569	M.J. PETERSON, LLC	8/9/2007	Correspondence/letter	xc of filed otsc
Tina	WAGNER, WILLIAM J., Jr.	20065569	M.J. PETERSON, LLC	8/10/2007	Document	Letter to Server to serve- snv otsc
Patti	WAGNER, WILLIAM J., Jr.	20065569	M.J. PETERSON, LLC	8/14/2007	Correspondence/letter	RCVD AFFVD ON NON SERVICE - DTR NO
Patti	WAGNER, WILLIAM J., Jr.	20065569	M.J. PETERSON, LLC	8/14/2007	Document	LONGER LIVES THERE
Sara	WAGNER, WILLIAM J., Jr.	20065569	M.J. PETERSON, LLC	9/17/2007	Invalid Address	Affidavit of Service
BarbaraR	WAGNER, WILLIAM J., Jr.	20065569	M.J. PETERSON, LLC	2/3/2009	Credit Report	Prev: Address1: 378 Windermere Blvd. (Wagner, William J.)
BarbaraR	WAGNER, WILLIAM J., Jr.	20065569	M.J. PETERSON, LLC	3/16/2009	Review- credit report;	cr
BarbaraR	WAGNER, WILLIAM J., Jr.	20065569	M.J. PETERSON, LLC	3/16/2009	LX; DMV	nc
Jamie	WAGNER, WILLIAM J., Jr.	20065569	M.J. PETERSON, LLC	7/14/2009	Review- credit report;	nc
Jamie	WAGNER, WILLIAM J., Jr.	20065569	M.J. PETERSON, LLC	3/19/2010	Credit Report	ordered new credit report
BarbaraR	WAGNER, WILLIAM J., Jr.	20065569	M.J. PETERSON, LLC	9/5/2010	Review- credit report;	nc
Suzanne	WAGNER, WILLIAM J., Jr.	20065569	M.J. PETERSON, LLC	4/4/2011	LX; DMV	Information Subpoena to Debtor
Suzanne	WAGNER, WILLIAM J., Jr.	20065569	M.J. PETERSON, LLC	4/4/2011	Document	Letter to Debtor-Jmt Dbtr Notice
Amanda	WAGNER, WILLIAM J., Jr.	20065569	M.J. PETERSON, LLC	4/7/2011	Correspondence/letter	IS returned - not deliverable as addy
Suzanne	WAGNER, WILLIAM J., Jr.	20065569	M.J. PETERSON, LLC	4/7/2011	Document	Letter-Post Office-address request
Amanda	WAGNER, WILLIAM J., Jr.	20065569	M.J. PETERSON, LLC	4/14/2011	Correspondence/letter	Jmt notice returned - not deliverable as addy
Patti	WAGNER, WILLIAM J., Jr.	20065569	M.J. PETERSON, LLC	5/10/2011	Correspondence/letter	USPS - P.O. box ltr returned - nop change of addy on file
Suzanne	WAGNER, WILLIAM J., Jr.	20065569	M.J. PETERSON, LLC	5/10/2011	Invalid Address	Prev: Address1: 1571 Eggert Road (Wagner, William J.)
Suzanne	WAGNER, WILLIAM J., Jr.	20065569	M.J. PETERSON, LLC	5/10/2011	Document	Letter to Debtor-Jmt Dbtr Notice 10-May-11
Suzanne	WAGNER, WILLIAM J., Jr.	20065569	M.J. PETERSON, LLC	5/10/2011	Document	Information Subpoena to Debtor 10-May-11
Amanda	WAGNER, WILLIAM J., Jr.	20065569	M.J. PETERSON, LLC	5/22/2011	Document	IS to debtor 5/10/11
Jamie	WAGNER, WILLIAM J., Jr.	20065569	M.J. PETERSON, LLC	6/8/2011	Correspondence/letter	USPS-Returned IS-Unclaimed

## Events\_Sheet

Amanda	WAGNER, WILLIAM J., Jr.	200655569	M.J. PETERSON, LLC	6/14/2011	Correspondence/letter	IS returned - unclaimed
Amanda	WAGNER, WILLIAM J., Jr.	200655569	M.J. PETERSON, LLC	6/17/2011	Document	Subpoena to Take Deposition
Amanda	WAGNER, WILLIAM J., Jr.	200655569	M.J. PETERSON, LLC	6/27/2011	Document	Letter to Server to serve- SDT
Antoinette	WAGNER, WILLIAM J., Jr.	200655569	M.J. PETERSON, LLC	7/10/2011	Correspondence/letter	server-aff of due diligence of non service for SDT-def moved out in May 2010
Suzanne	WAGNER, WILLIAM J., Jr.	200655569	M.J. PETERSON, LLC	7/13/2011	Invalid Address	Prev: Address1: 102 Reiman St. Fl 2 (Wagner, William J.)
Suzanne	WAGNER, WILLIAM J., Jr.	200655569	M.J. PETERSON, LLC	7/13/2011	Document	Letter-Post Office-address request 13-Jul-11
BarbaraR	WAGNER, WILLIAM J., Jr.	200655569	M.J. PETERSON, LLC	11/26/2011	LX; DMV	Lx no new add
Missy	WAGNER, WILLIAM J., Jr.	200655569	M.J. PETERSON, LLC	2/9/2015	Credit Report	Order C/R re: WILLIAM J. WAGNER Jr.
Missy	WAGNER, WILLIAM J., Jr.	200655569	M.J. PETERSON, LLC	2/9/2015	Employment Search	Employment Search re: WILLIAM J. WAGNER Jr.
Missy	WAGNER, WILLIAM J., Jr.	200655569	M.J. PETERSON, LLC	2/9/2015	Invalid Address	Prev: Address1: 1571 Eggert Road (Wagner, William J.)
Missy	WAGNER, WILLIAM J., Jr.	200655569	M.J. PETERSON, LLC	2/9/2015	LX; DMV	Real-info: Dbtr owns 5419 Roberts Rd. w/ wife; Lx - nothing current
Missy	WAGNER, WILLIAM J., Jr.	200655569	M.J. PETERSON, LLC	2/9/2015	Attorney change	Atty chng from Barbara Ridall to Melissa Overbeck
Missy	WAGNER, WILLIAM J., Jr.	200655569	M.J. PETERSON, LLC	2/9/2015	Document	Letter to Debtor-Jmt Dbtr Notice 9-Feb-15
Missy	WAGNER, WILLIAM J., Jr.	200655569	M.J. PETERSON, LLC	2/9/2015	Document	Information Subpoena to Debtor 9-Feb-15
Karen	WAGNER, WILLIAM J., Jr.	200655569	M.J. PETERSON, LLC	2/12/2015	Telephone Call	A william Wagner calls office, he lives at the Roberts Rd address, claims not him, he is not a Jr. Claims this has been rec stuff for last 6-7 yrs for D. Gave me last couple number of SS# (16) told him would note file and email atty. Emailed MO
Kristian	WAGNER, WILLIAM J., Jr.	200655569	M.J. PETERSON, LLC	3/19/2015	Telephone Call	William Wagner co- says he is not dbtr says his DOB is in Oct 1950- very upset that he keeps getting ltrs from our office- adv him can send a copy of DL and SS# if he'd like- he says for us to just let WI know that he is not dbtr- adv we did email attny.
Tiera	WAGNER, WILLIAM J., Jr.	200655569	M.J. PETERSON, LLC	5/11/2015	Correspondence/letter	usps-returns -Info sub- unclaimed
Antoinette	WAGNER, WILLIAM J., Jr.	200655569	M.J. PETERSON, LLC	5/15/2015	Document	Subpoena to Take Deposition 15-May-15
Antoinette	WAGNER, WILLIAM J., Jr.	200655569	M.J. PETERSON, LLC	5/15/2015	Document	Letter to Server to Serve-Action
Missy	WAGNER, WILLIAM J., Jr.	200655569	M.J. PETERSON, LLC	6/5/2015	LX; DMV	Lx - looks like VW, Sr. and VW, Jr. live at same address - advised Action to be sure to serve correct dbtr



## Events\_Sheet

Karen Karen	WAGNER, WILLIAM J., Jr. WAGNER, WILLIAM J., Jr.	20065569 20065569	M.J. PETERSON, LLC M.J. PETERSON, LLC	6/17/2015 Telephone Call	A william wagner calls office, served with papers said not him and no Jr lives there. He doesn't even have a Jr in family. Told William per conversation with KB, he was to send in Drivers lic. And never received. D thought sent out. Claims we are (cont'd) harrasing him and he to contact his atty
				6/17/2015 Telephone Call	
Karen	WAGNER, WILLIAM J., Jr.	20065569	M.J. PETERSON, LLC	6/24/2015 Correspondence/letter	
Missy	WAGNER, WILLIAM J., Jr.	20065569	M.J. PETERSON, LLC	6/29/2015 Correspondence/letter	
Missy	WAGNER, WILLIAM J., Jr.	20065569	M.J. PETERSON, LLC	Review- credit report; 6/29/2015 LX; DMV	
Missy	WAGNER, WILLIAM J., Jr.	20065569	M.J. PETERSON, LLC	6/29/2015 Invalid Address Review- credit report;	
Missy	WAGNER, WILLIAM J., Jr.	20065569	M.J. PETERSON, LLC	6/29/2015 LX; DMV	
Missy	WAGNER, WILLIAM J., Jr.	20065569	M.J. PETERSON, LLC	6/29/2015 Telephone Call	
Missy	WAGNER, WILLIAM J., Jr.	20065569	M.J. PETERSON, LLC	6/29/2015 Telephone Call	
Missy	WAGNER, WILLIAM J., Jr.	20065569	M.J. PETERSON, LLC	6/29/2015 Def. Attorney change 6/29/2015 Document	